ADAMS AND REESE LLP

TESTIMONY ON BEHALF OF THE CITY OF HOUSTON ON HOUSE BILL 2713

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By
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Dear Chairman and Committee Members:

Thank you for the opportunity to provide testimony on behalf of the City of Houston on House Bill 2713 (HB 2713).

HB 2713 adds Sec. 36.067 of the Utilities Code to include a presumption that in setting electric utility rates, employee compensation and benefits expenses shall be presumed to be reasonable and necessary if the expenses are consistent with market compensation studies.

The City of Houston opposes HB 2713 for at least two fundamental reasons:

1. As currently proposed, HB 2713 would permit nearly all incentive compensation, including all financial-based incentive compensation for non-executive officers. This modification to Section 36.607 would override and contradict long-held regulatory principles and precedent, including those of the Texas Public Utility Commission (the "Commission" or the "PUC").

   Electric utility rates are universally determined based on cost-causation or cost-benefit analysis. In other words, the rates are designed so that costs are assigned to and recovered from the facilities, entities or customers responsible for causing or benefitting from the costs. This Commission, and the regulatory authorities of nearly every other state in the country, specifically disallows incentive compensation based on financial performance or metrics for all utility employees. The reason for this is very simple: shareholders, and not rate payers, benefit from the increased financial performance of the utility company. This is especially true when the incentive compensation is tied to the utility's performance in a rate case. Higher rates lead to higher earnings, which benefit shareholders (not rate payers). As a result, the Texas PUC attributes these costs to shareholders and disallows them from rates.

The utility and its shareholders are not harmed by this exclusion, because the incentive compensation the utility pays its executives and employees is easily funded by the increased earnings.

2. The City of Houston also objects to HB 2713's presumption that employee compensation and benefits expenses are reasonable and necessary if based on a market compensation study. Each case should be examined separately, with all of the evidence considered. No greater weight should be assigned to a market study over any other piece of evidence offered into the record on this issue.

Too often market studies presented by utilities include non-regulated fortune 500 companies. These are not comparable entities. The risk profile of non-regulated, for-profit companies is totally different than that of regulated electric utility companies. The risks associated with non-regulated companies is much higher than that of regulated electric utilities, the latter of which have a guaranteed rate of return.

Due to the absence of a guaranteed rate of return, and thus a higher risk, higher salaries are necessary to attract and compensate executives and employees at these non-regulated entities. Salaries commensurate with those paid by these companies are simply not justified for regulated utility companies. Thus, creating a presumption of reasonableness to a "market study" will very likely lead to unsupported higher utility compensation, which, in turn will result in unreasonably higher rates to consumers.

For the reasons expressed in this testimony, the City of Houston opposes HB 2713 and requests that it not be passed.

By: Alton Hall

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On behalf of City of Houston